



House of Lords

East Timor: the moment of truth

Eric Avebury, chairman, Parliamentary Human Rights Group

(The question of East Timor, world public opinion and international organisations)

Inter-Parlamentary Conference on East Timor

June 1, 1995

The talks which are to be held in Salzburg, starting coincidentally on the day this conference ends, are going to put the question of East Timor's political destiny firmly on the international agenda, for the first time in more than 13 years. General Assembly Resolution 37/30 of 1982 inaugurated an era of shadow-boxing between Indonesia and Portugal, which has lasted up until today. The annual reports of the Secretary-General since 1982 have been largely about confidence-building measures, and not about the substantive issue of self-determination. The so-called 'All-Inclusive Intra-Timorese Dialogue' may not be any more than a forum in which various opinions from both sides can be aired, as Lopes Da Cruz, Indonesia's Ambassador at large for East Timor, has said, but it lets the genie out of the bottle.

Once the principle has been established that the Timorese are an essential part of the equation, there can be no solution without them. They are not going to be ignored, as the West Papuans were in the shabby deal that was cobbled together over their heads by Indonesia, the Netherlands and Australia in the sixties. The only question is what form their participation ultimately should take, and on this, Timorese will now be able to speak on the record for themselves.

In a memorandum delivered to the UN Secretary-General when representatives of Parliamentarians for East Timor met him in New York on March 25, 1991, we invited him to agree that when Resolution 37/30 called on him to initiate consultations with 'all the parties concerned', it meant the people of East Timor as well as the governments of Indonesia and Portugal. There were informal contacts behind the scenes in those days, but they were not treated as being part of the process, and they were all bilateral, not multilateral. So this dialogue is an advance, and the next stage is to ensure that it is an automatic precursor of all future rounds of talks.

We had been anxious that the postponement of the talks from April to June, at the behest of the Indonesians, was an attempt to sabotage the process by reversing the order of the 'all-inclusive talks' and the next round of discussions between Portugal and Indonesia. It seems now as though they were really concerned only with the balance of pro- and anti-integrasi forces, and this was settled amicably for the purposes of the initial meeting. There was no pretence of making the participants reflect the opinions of the Timorese, either inside or in the diaspora, and this was less important than getting the dialogue under way. If it develops into a permanent feature of the 37/30 process, then one item for consideration would be how to make the talks more representative. The inclusion of Xanana, for example, would have to be on the agenda.

The talks are not supposed to address the political status of East Timor, but they can 'explore ideas of a practical nature that might have a positive impact on the situation..... and assist in the establishment of an atmosphere conducive to the achievement of a solution.....'. This means that the discussions could profitably cover the possible methodologies for deciding on the political status of the territory, as well as confidence-building measures such as reductions in the level of military forces in East Timor, promotion of freedom of assembly and of expression, the elimination of torture and extrajudicial killings, and above all, the admission of human rights observers.

By common consent, the human rights situation in East Timor has not been improving. Even those who are inclined to give Indonesia the benefit of the doubt are critical. Senator Gareth Evans, the Australian Foreign Minister, said very recently that Indonesia's military presence was 'oppressive'; that it was far and away beyond what was necessary for the security of the place, and that no country had been successful in persuading the Indonesians towards a strategy of reconciliation. Neither threats to cut aid, nor public criticism, nor remonstrations behind the scenes, had produced results, he said in an unusually frank interview with the Melbourne Age, though he did also observe that an active debate was going on between the government and the military on scaling down the level of forces, which had yet to be translated into action.

The immediate trigger for Senator Evans' comments was the remarkable statement by a Melbourne nurse, who treated East Timorese who had been tortured, raped and beaten up while he was working as a volunteer in the territory. Mr Simon de Faux said he had been warned by Australian officials not to speak to the media about his experiences, and whatever their motives were, it is inconvenient for governments which are trying to improve relations with Jakarta, so as to get more business, to have their efforts undermined, as they would see it, by individuals and NGOs constantly highlighting serious human rights abuses.

Unfortunately, there had been a spate of embarrassing news about human rights in East Timor since last November, starting with the treatment of the students who were involved in peaceful demonstrations at the US Embassy in Jakarta on the third anniversary of the Santa Cruz massacre. The 29 who succeeded in climbing over the wall into the Embassy compound were allowed to accept offers of asylum from Portugal, but 40 who were not so agile were interrogated by the military and otherwise harassed.

Throughout November there were demonstrations against the occupation in East Timor, as well as one in favour of *integrasi* orchestrated by the authorities. The authorities used excessive force against the anti-

government demonstrators, and there was some harassment of foreign journalists, including four who were ejected from the territory

In December, there were several ominous developments. Those arrested were treated much worse, now that foreign journalists covering the APEC meeting had gone home, and the gangs of thugs allegedly sponsored by the government, known as the ninjas, made their appearance. Some of the arrests were carried out by the military intelligence, the SGI, and ethnic violence erupted between the Timorese and the immigrant Bugis community, culminating in a riot on January 1 which led to the deployment of Indonesian troops.

In January, the killing of six unarmed civilians at Liquica on January 12, following a clash locally between the Indonesian military and a band of guerrillas, caused a new international uproar. In another atrocity, nine young Timorese are reported to have been shot dead on January 9, shortly after a peaceful demonstration. The father of one of the young men is also said to have been killed, after he went to battalion headquarters to enquire after his son. Indonesian police have acknowledged that five of these young men are considered to be "missing". Local inhabitants believe that these five youths are already dead. The ninjas were active, and there were arrests of persons who were alleged to be members of armed gangs, but may have been activists in the pro-independence movement.

The British Coalition for East Timor (BCET), and TAPOL, the London-based Indonesia Human Rights Campaign, have called on the United Nations to establish a human rights monitoring presence in East Timor with a view to deterring and ideally preventing further human rights violations. As a minimum, they propose that the UN Secretary-General should have a permanent representative based in Dili. The monitors, or representative, should report directly to ESCAP (the Economic and Social Council for the Asia-Pacific region) in Bangkok or to the Secretary-General in New York, so as to ensure that their presence does not imply recognition of the Indonesian occupation of East Timor.

The BCET point out that the UN's Civilian Mission to Haiti in 1993 appeared to have led to an improvement in the human rights situation, and gave a useful precedent. That mission, initiated by the General Assembly, was authorised to monitor human rights violations, attend meetings and demonstrations where violations might occur as a "dissuasive presence", and to educate the population about their rights.

Another precedent worth considering is the Human Rights Commission's decision to send human rights monitors to Iraq. The government of Iraq refused to cooperate, and the Special Rapporteur on Iraq has now suggested that staff members of the Centre for Human Rights should be sent to various locations outside Iraq where they could interview persons who

claim to be victims of, or eyewitnesses to, human rights violations inside Iraq. The same technique could be applied to East Timor. If the Indonesian authorities refused to allow the deployment of monitors, evidence could be taken from victims or eyewitnesses in Lisbon, Darwin or elsewhere.

In the meanwhile, it must be noted that most of the recommendations in the report of the UN Special Rapporteur on Extrajudicial Executions, M Bacre Waly Ndiaye remain unimplemented, and that the Rapporteurs on Torture and the Working Groups on Disappearances and on Arbitrary Detention have not been invited to East Timor as demanded by the Human Rights Commission in 1994. One of the most important of M Ndiaye's proposals was that the Santa Cruz killings should be investigated by a new commission of inquiry, composed of individuals of recognised independence, impartiality and expertise. The necessary expertise in anthropology, forensic science, ballistics etc should be provided internationally if necessary, he suggested.

M Ndiaye also urged the Indonesian authorities to carry out thorough, prompt and impartial investigations of all suspected cases of extrajudicial, summary or arbitrary executions and enforced or involuntary disappearances. The steps taken to investigate the Liquica killings fall a long way short of meeting this recommendation, and the publication of the army's version of events while the matter was sub judice is a repetition of the authorities behaviour after Santa Cruz. The army appointed its own so-called 'Honor Commission', and the National Commission for Human Rights, which made fairly strong recommendations, reported only in private.

Unfortunately, the UN Human Rights Commission dealt with East Timor by consensus agreement rather than a resolution this year, which may be taken by Indonesia as a sign that no adverse consequences will follow their contemptuous disregard of the strong 1993 resolution. The Commission did not mention the Special Rapporteur or his recommendations, and merely took *'note of the intention of the Government of Indonesia to continue to cooperate with the relevant thematic Special Rapporteurs and /or Working Groups of the Commission on Human Rights, and to invite them, taking into consideration their requests to visit East Timor when necessary for the fulfilment of their duties'*.

As the multi-party East Timorese delegation observed,

Not one single provision contained in the 1992 and 1994 Chairman's statements has been implemented by the Indonesian government.

Nor should one have any confidence in the projected visit of the High Commissioner for Human Rights. It would have been far better to press

for implementation of the visits already demanded by the Commission, and of the recommendations made by M Ndiaye.

Indonesian policy on East Timor has to be seen in the context of developments in the political climate in Jakarta. For some time, western observers including the British Foreign Office, claimed to detect a movement towards a greater spirit of openness, and if this trend had continued, it might have led to a situation where freedom of expression in East Timor would have enabled some objective assessment to be made of the wishes of the people. It would not have been unreasonable to expect that ultimately, the Timorese representatives at any future rounds of 'inclusive talks' would have been elected, rather than selected, and that in this way the balance of pro- and anti-independence delegates would have been an accurate reflection of the views of the people. This certainly should be the objective of the democratic states in the United Nations, and as part of the strategy, they should be urging Jakarta in the direction of press freedom. The International Federation of Journalists made a number of constructive recommendations following their mission to Indonesia in April and these should be raised with Jakarta at every opportunity.

The one really encouraging feature of the East Timor scene over the last few years has been the growth of a very powerful body of public opinion on the issue in several different countries, and the emergence of new coalitions amplifying the message to other constituencies. One of the most effective of these in Britain has been the Campaign Against Arms Trade, which has been able to enlist new groups which concentrate on the morality of weapons sales to Indonesia, and the possibility that weapons made in Britain could help to kill people struggling against an oppressive colonialist régime.

The Principles Governing Conventional Arms Transfers, agreed by all the states of the CSCE - now the OSCE - in November 1993 provided that states would avoid transfers which would be likely to be used for the violation or suppression of human rights. It is not necessary to prove, as much of the discussion implies, that they have already been so used.

In considering proposed transfers, states must take into account the respect for human rights in the recipient country; the record of compliance by the recipient country with its international commitments, in particular on the non-use of force; the objective of least diversion for armaments of human and economic resources, and the need to avoid introducing destabilising military capabilities into a region. On all these counts, there should be a presumption against transfers, but the problem is that no state ever challenges another, no doubt wishing to avoid the diplomatic penalties that would entail. The answer would be to provide a forum in which NGOs could formally object to sales that in their view contravened the set of Principles, and states would have to defend their positions

against these criticisms, before a commission of expert representatives from the member states, like the UN Commission procedure.

The more ways there are of raising the question of East Timor in world and regional forums, the more likely it is that ultimately a political solution acceptable to the people can be achieved. Portugal must be warmly congratulated on her determination and single-mindedness in keeping the issue on the agenda, and now is the time for those efforts to be further intensified. Better coordination of the Parliamentary initiatives in many different countries, which has been attempted by Parliamentarians for East Timor without resources, would be one important measure which has already been discussed here in Portugal. Whether or not formal mechanisms for this can be developed here at this meeting, the ideas we have exchanged and the contacts we have made surely mean that the cause of self-determination for East Timor will have been given a new impetus in Lisbon this week.

Finally, let us never forget, as Parliamentarians, that self-determination is not an abstract legal concept. It is a cause for which nearly a quarter of a million people have sacrificed their lives in East Timor. It is, as has been said, the essential precondition for the existence of all other human rights and freedoms, and the people of East Timor are just as much entitled to that fundamental right as the peoples of any other former colony, or the subject states of the former Soviet Union. The ordinary citizens of the democracies see this better than most of their leaders, and we can translate our own peoples' knowledge of what is right and just, into government policies. Then we can say, as we think of the martyrs to freedom, in the words of Abraham Lincoln

that from these honoured dead we take increased devotion to that cause for which they gave the last full measure of devotion.